

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

KATHRYN MARSHALL

CASE NO. C-1-02-189

VENA MARSHALL

Judge Herman Weber

Plaintiffs

Magistrate Judge Hogan

vs.

OHIO DEPARTMENT OF EDUCATION,
et al.

Defendants

**DEFENDANTS' MEMORANDUM IN
OPPOSITION TO PLAINTIFFS'
MOTION FOR ENLARGEMENT OF
TIME TO FILE RESPONSE TO
SUMMARY JUDGMENT MOTION**

In response to plaintiffs' motion, the defendants respectfully oppose any additional extension of time for the plaintiffs to file their memorandum in opposition to the defendants' motion for summary judgment. Defendants are mindful of the precarious health situation of plaintiff Vena Marshall, however, it should be noted that the defendants filed their summary judgment motion on March 14, 2006. Under the scheduling order in place at that time, plaintiffs' response was due April 7, 2006. They asked for and received an extension of time until May 20, 2006 to respond to the defendants' motion for summary judgment. Both plaintiffs have been deposed and their testimony has been filed with the Court and is on record. There is no additional discovery sought by the plaintiffs and they should be in a position to respond to the defendants' summary judgment motion.

Plaintiffs have not produced any information indicating why their attorney cannot respond to the summary judgment motion that has been pending since March 14, 2006.

Certainly to extend the deadline another ninety days until August 20, 2006 will severely endanger the October 2006 trial term setting by the Court in this matter. Given the lengthy delays occasioned by plaintiffs conduct in this matter, defendants respectfully submit that no more delays should be permitted and that the plaintiffs should file their memorandum in opposition to the defendants' summary judgment motion if they can, promptly.

Respectfully submitted,

/s/ R. Gary Winters

R. Gary Winters 0018680
Bernard W. Wharton 0063487
Attorneys for Defendants
McCASLIN, IMBUS & McCASLIN
Suite 900 Provident Bank Building
632 Vine Street
Cincinnati, OH 45202-2442
(513) 421-4646 Telephone
(513) 421-7929 Facsimile
rgwinters@mimlaw.com
bwwharton@mimlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of June, 2006, a copy of the foregoing document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ R. Gary Winters
R. Gary Winters 0018680
Bernard W. Wharton 0063487
McCASLIN, IMBUS & McCASLIN
Attorneys for Defendants
Suite 900 Provident Building
632 Vine Street
Cincinnati, OH 45202-2442
(513) 421-4646 Telephone
(513) 421-7929 Facsimile
rgwinters@mimlaw.com
bwwharton@mimlaw.com